

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

RESORT CENTER ASSOCIATES, LLC,
a Utah Limited Liability Company,

Plaintiff,

v.

MICHAEL S. REGAN, in his official
capacity as Administrator of the United
States Environmental Protection Agency,
the UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY, SCOTT BAIRD, in his official
capacity as Executive Director of the Utah
Department of Environmental Quality, the
UTAH DEPARTMENT OF
ENVIRONMENTAL QUALITY, the
COUNTY OF SUMMIT, a body politic and
corporate of the State of Utah, UNITED
PARK CITY MINES COMPANY, a
Delaware corporation, and DOES 1-20,

Defendants.

Case Number 2:21-cv-000078-BSJ

Declaration of Robert Parker

I, ROBERT PARKER, in accordance with 28 U.S.C. § 1746, declare as follows:

Background

1. I am a Remedial Project Manager (“RPM”) with the U.S. Environmental Protection Agency (“EPA”), Region 8, in Denver, Colorado. In my role as an RPM, I work on response actions undertaken by EPA pursuant to the Comprehensive Environmental Response,

Compensation and Liability Act of 1980 (“CERCLA” or “Superfund”), and I implement the National Contingency Plan, 40 C.F.R. Part 300 (“NCP”). I have been the RPM for the Richardson Flat Tailings Site (commonly known as “Richardson Flat” or simply “the Site”) since September 2016.

2. I have worked in the EPA Region 8 Superfund/CERCLA Program for more than eleven years overseeing and performing environmental investigation and cleanup activities. I am an EPA credentialed “Remedial Project Manager A.” I have Bachelor of Science degrees in chemical engineering and environmental engineering from the University of Colorado at Boulder, and I am a licensed Professional Engineer in the State of Colorado.

3. As an RPM, I coordinate, direct, and oversee investigation and cleanup work at CERCLA sites to ensure that they comply with CERCLA, the NCP, EPA decision documents and work plans, consent decrees, and administrative orders.

Site Background

4. Mining began in the Park City area in the late 1860s, with the first significant mine, the Ontario mine, opening in 1872 and continuing until approximately 1982.

5. Numerous mining companies mined silver, gold, zinc, and lead in the Park City area over nearly a century.

6. The mining companies and mills disposed of non-marketable mine waste, such as tailings. Some tailings were disposed by sluicing them into Silver Creek, or into ditches or tributaries leading to Silver Creek.

7. Silver Creek and its tributaries carried tailings downstream, depositing them where the stream velocity was low in locations through the watershed in Park City and Richardson Flat.

8. The Site consists of over 2,300 acres in the Silver Creek watershed in and around Park City.

9. EPA has divided the Site into four operable units or “OUs.” OU1 is a tailings impoundment located southeast of the junction of Highway 40 and Utah Highway 248. OUs 2 and 3 include portions of Lower Silver Creek and nearby upland areas, which extend upstream to Park City and downstream to Interstate 80. OU4 is an outfall known as Prospector Drain, which collects shallow groundwater and discharges into Lower Silver Creek near Park City.

10. Soil sampling has confirmed that the tailings that have come to be located in Richardson Flat OUs 2 and 3 contain hazardous substances, including arsenic, lead, cadmium, and zinc.

11. As a result, the soil at OUs 2 and 3 is contaminated with heavy metals originating from historical mining activities.

12. Water sampling has confirmed that water within Silver Creek contains hazardous substances, including arsenic, lead, cadmium and zinc.

13. Water within Silver Creek has been diverted from its channel to irrigate nearby agricultural areas, potentially contaminating upland areas in OUs 2 and 3.

14. In 2009, EPA and potentially responsible party United Park City Mines (“UPCM”) entered into an Administrative Settlement Agreement and Order on Consent that required UPCM to undertake a remedial investigation and feasibility study for OU2. A true and correct copy of the 2009 Administrative Settlement Agreement and Order on Consent is attached to this declaration as Appendix A.

15. In 2014, UPCM, EPA, and other state and federal agencies entered into an Administrative Settlement Agreement and Order on Consent that required UPCM to prepare and

perform an Engineering Evaluation/Cost Analysis (“EE/CA”) and undertake subsequently selected removal actions at OUs 2 and 3 of the Site (the “2014 Administrative Order”). The 2014 Administrative Order supersedes the 2009 Administrative Order. A true and correct copy of the 2014 Administrative Order is attached to this declaration as Appendix B.

16. The Engineering Evaluation/Cost Analysis, among other items, should consist of the collection of data to characterize conditions at OUs 2 and 3 and determine the nature and extent of contamination. The EE/CA may also include performance of treatability testing, which would evaluate the potential performance and cost of possible treatment technologies. The EE/CA also aids in the determination of whether additional removal actions may be needed to prevent, mitigate, or otherwise respond to the release of hazardous substances at OUs 2 and 3.

17. UPCM failed to meet its obligations under the 2014 Administrative Order. UPCM did not perform the EE/CA or the other removal actions required under the 2014 Administrative Order.

18. As a result of UPCM’s deficiencies in completing the EE/CA under the 2014 Administrative Order, among other identified deficiencies, EPA partially took over the work in June of 2017.

19. EPA’s EE/CA work includes soil sampling throughout OUs 2 and 3 to characterize the nature and extent of contamination.

20. Sampling undertaken by Resort Center Associates at OU2 was not conducted under EPA oversight. EPA did not select the location of the samples, sample density, or collection methodology. This sampling work was not performed pursuant to an EPA approved Sampling and Analysis Plan, as required by the National Contingency Plan. Accordingly, EPA

cannot say Resort Center Associates' samples alone adequately reflect the nature and extent of contamination on Resort Center Associates' property.

21. EPA has not yet completed the EE/CA for OUs 2 and 3. EPA's response activities for these operable units are ongoing. EPA's current actions at the Site to investigate and characterize the scope of contamination at the Site are removal actions taken under CERCLA section 104.

22. EPA will evaluate the information gathered during the EE/CA process. Once that process is complete, EPA may, as necessary, select a response action and issue an Action Memorandum for OUs 2 and 3 in accordance with CERCLA and the National Contingency Plan.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 14, 2021.

**ROBERT
PARKER**

Digitally signed by
ROBERT PARKER
Date: 2021.05.14
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ROBERT PARKER